

ORDINANCE NO. 25,777

AN ORDINANCE RELATING TO MOTOR VEHICLES AND TRAFFIC; AMENDING SECTION 32-458 OF ARTICLE XIII OF CHAPTER 32 OF THE OKLAHOMA CITY MUNICIPAL CODE, 2010, AS ENACTED PURSUANT TO SECTION 2 OF OKLAHOMA CITY ORDINANCE NO. 25,283; SETTING FORTH CERTAIN FINDINGS BY THE CITY COUNCIL; SETTING FORTH A STATEMENT OF INTENT BY THE CITY COUNCIL; PROVIDING THAT, EXCEPT AS PERMITTED BY SUBSECTION (E) OF SECTION 32-458, NO INDIVIDUAL SHALL STAND, SIT, OR STAY FOR ANY PURPOSE IN ANY PORTION OF A STREET OR HIGHWAY OPEN FOR USE BY VEHICULAR TRAFFIC; FURTHER PROVIDING THAT, EXCEPT AS PERMITTED BY SUBSECTION (E) OF SECTION 32-458, NO INDIVIDUAL SHALL STAND, SIT, OR STAY FOR ANY PURPOSE ON ANY PORTION OF ANY MEDIAN LOCATED WITHIN A STREET OR HIGHWAY OPEN FOR USE BY VEHICULAR TRAFFIC IF THE POSTED SPEED LIMIT FOR SUCH STREET OR HIGHWAY IS 40 MPH OR GREATER—HOWEVER, IF NO SPEED LIMIT IS POSTED FOR A STREET OR HIGHWAY, THEN FOR THE PURPOSE OF APPLYING SUCH RESTRICTIONS ON THE USE OF MEDIANS, THE SPEED LIMIT OF SUCH STREET OR HIGHWAY SHALL BE PRESUMED TO BE 25 MILES PER HOUR; PROVIDING CERTAIN EXCEPTIONS TO THE RESTRICTIONS IMPOSED BY SECTION 32-458; PROVIDING A PENALTY FOR VIOLATION OF SECTION 32-458; AND DECLARING AN EMERGENCY.

EMERGENCY ORDINANCE

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OKLAHOMA CITY:

SECTION 1. Section 32-458 of Article XIII of Chapter 32 of the Oklahoma City Municipal Code, 2010, as enacted pursuant to Section 2 of Oklahoma City Ordinance No. 25,283, is hereby amended to read as follows:

§ 32-458. - Standing, sitting, or staying on a streets, highways, or certain medians.

~~(a) —The purpose of this section is to:~~

- ~~(1) Help to protect persons from the traffic hazards and potential personal injuries that they are or may be exposed to by engaging in any activity on those portions of the public streets or highways that are open, improved, and in actual use by vehicular travel, and on certain portions of the medians abutting such public streets or highways; and~~
- ~~(2) Help to protect drivers of vehicles from potential legal liability from injuring persons engaged in any such activities on any such public streets, highways, or medians, or from potential legal liability or injury from traffic accidents potentially resulting from the distractions created by persons engaging in any such activities on any such streets, highways, or medians.~~

(a) Findings. The City Council enters the following findings:

- (1) Regardless of the speed limit, individuals who are sitting, standing or staying in streets or highways open for use by motor vehicles are placing themselves in danger of serious bodily injuries or death from motor vehicles using such streets or highways; and
- (2) National studies have shown a strong correlation between higher motor vehicle speeds and fatal injuries to pedestrians; and
- (3) The Center for Disease Control and Prevention has reported that higher motor vehicle speeds increase both the likelihood of a pedestrian being struck by a motor vehicle and the severity of the injury; and
- (4) According to the Federal Highway Administration, a pedestrian hit by a motor vehicle at 40 miles per hour (mph) has an 85% chance of fatality, compared to 5% at 20 mph and 45% percent at 30 mph; and
- (5) Consequently, individuals who are sitting, standing or staying on medians located in streets or highways with a speed limit of 40 mph or greater that are open for use by motor vehicles are placing themselves in grave danger of grievous bodily injuries or death from motor vehicles using such streets or highways; and
- (6) According to the US Department of Transportation National Highway Safety Administration, in 2015 there were 192 pedestrians injured per day in traffic accidents; and on average, a pedestrian was killed nearly every 1.6 hours and injured more than every 7.5 minutes in traffic crashes in 2015; and

- (7) In 2015, pedestrian deaths accounted for 15 percent of all traffic fatalities, and 90 percent of the pedestrians were killed in traffic crashes that involved single vehicles; and
- (8) 19% of the pedestrians killed in 2015 were struck in crashes that involved hit-and-run drivers; and
- (9) Furthermore, individuals who are sitting, standing or staying in such streets or highways or on such medians create additional distractions for the operators of motor vehicles using such streets or highways; and
- (10) Accordingly, the owners and/or operators of motor vehicles in such streets or highways that are involved in collisions with any such individuals are placed at serious and significant risk of possible criminal and/or civil litigation and/or liability; and
- (11) Based on findings (a)(1) through (a)(10) above, the City Council wishes to enact this section to:
- i. Limit as much as possible the number of individuals sitting, standing or staying in streets or highways that are open for use by motor vehicles; and to further
 - ii. Limit as much as possible the number of individuals sitting, standing or staying on medians located in streets or highways with a speed limit of 40 mph or greater that are open for use by motor vehicles; and
- (12) The City Council further finds that, notwithstanding the restriction imposed by this section on the use by individuals of medians located in streets or highways with a speed limit of 40 mph or greater, scores of medians exist throughout the limits of the City that are located in streets or highways with a speed limit of less than 40 mph and all such medians may be available for unrestricted use by individuals.

(b) Intent. This Ordinance is not intended to impermissibly limit an individual's right to exercise free speech. Rather it seeks to impose a regulation that is narrowly tailored to protect pedestrians and drivers alike by imposing a specific place and manner restrictions for certain places where substantial threats of grievous bodily injury or death exist due to vehicular traffic traveling at high speeds.

(b~~c~~) Except for the conduct as permitted by Subsection (d~~e~~) of this section, no person/individual shall stand, sit, or stay for any purpose on the portions in any

portion of any street or highway improved and open for use by vehicular traffic for any purpose.

(~~ed~~) Except for the ~~conduct~~as permitted by Subsection (~~de~~) of this section, no ~~person~~individual shall stand, sit, or stay for any purpose on any portion of any median ~~abutting~~located within a street or highway ~~improved and~~open for use by vehicular traffic if the posted speed limit for such street or highway is 40 mph or greater; provided, if no speed limit is posted for such street or highway, then for the purpose of applying the restrictions imposed by this subsection, the speed limit of such street or highway shall be presumed to be 25 miles per hour for any purpose unless:

(1) ~~Such portion of the median is 30 or more feet in width from curb line to curb line; or~~

(2) ~~Such portion of the median is located more than 200 feet away from any intersection.~~

(~~de~~) Subsections (~~bc~~) and (~~ed~~) of this section shall not apply to:

(1) ~~Individuals~~persons using a crosswalk or safety zone to cross from one side of the street or highway to another;

(2) Government law enforcement officers, other government employees, or government contractors or their employees or subcontractors who are present in the street or highway or on the median for the purpose of acting within the scope of governmental authority ~~law enforcement officers or public employees acting within the scope of their work;~~

(3) ~~Individuals~~persons conducting legally authorized construction or maintenance work, or other legally authorized work, in or on the street, highway, or median; or

(4) ~~Individuals~~persons responding to any emergency situation.

(5) ~~persons standing, sitting, or staying on any trail designated for public use;~~

(6) ~~persons standing, sitting, or staying on land dedicated to the public use as a public park; or~~

(7) ~~portions of medians containing benches or other improvements designed for use by the public.~~

(e~~f~~) Any person who violated~~s~~ the provisions of this section shall, upon conviction, be punished by a fine not to exceed \$100.00. No court costs ~~or~~ ~~statutory fees~~ shall be assessed.

SECTION 2. EMERGENCY. WHEREAS, it being immediately necessary for the preservation of the peace, health, safety, and public good of The City of Oklahoma City and the inhabitants thereof that the provisions of this ordinance be put into full force and effect, an emergency is hereby declared to exist, by reason whereof this ordinance shall take effect, and be in full force from and after its passage, as provided by law.

INTRODUCED AND READ in open meeting of the Council of The City of Oklahoma City this 24th day of October, 2017.

ADOPTED by the Council and **SIGNED** by the Mayor of The City of Oklahoma City this 7th day of November 2017.

ATTEST:

THE CITY OF OKLAHOMA CITY

Frances Kersey
City Clerk

s/b Mick Cornett
MAYOR